

REMARKS

The present amendments to the Title, Specification and Drawings were also made in the parent case (App. No. 09/320,816) to which this application claims priority.

Claims 1-9, which the Examiner rejected in the parent case, remain pending. Applicants submit that claims 1-9 are allowable, for the reasons stated below. This Amendment amends original claims 10-19, which the Examiner allowed in the parent case, to convert those claims to recite a process of using a computer program and a method of using a system for identifying alliances among a plurality of business entities in components of a network framework.

Rejections of claims 1-9 under 35 U.S.C. § 101

In the final office action dated May 14, 2003 in the parent patent application, the Examiner rejected claims 1-9 under 35 U.S.C. § 101. Applicants respectfully submit that, contrary to the Examiner's rejection, claims 1-9 are directed to patentable subject matter.

In the final rejection, the Examiner stated:

The basis of this rejection is set forth in a two-part test of:

- 1) whether the invention is within the technological arts; and
- 2) whether the invention produces a useful, concrete and tangible result.

(May 14 Office Action p. 2)

If this rejection and test are applied to claims 1-9, Applicants respectfully request a citation to the MPEP (or caselaw) to support the two-part test set forth in the Office Action.

The Examiner further explained the §101 rejection:

... For a process claim, the recited process must somehow apply, involve, or advance the technological arts.

Though the claims produce a useful, tangible and concrete result . . . the claims do not meet the Court's definition of a "statutory process." There is no treatment of materials such that subject matter is transformed and reduced to a different

state. The claims contain no apparatus of any sort and are therefore, not in the technological arts and non-statutory.

(May 14 Office Action p. 3.)

Applicants respectfully disagree with the rejection and with the Examiner's recitation of the standard for patentability of a process under § 101.

Section 2106 of the MPEP sets forth a standard for determining whether a process is statutory:

To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan (discussed in i) below), or (B) be limited to a practical application within the technological arts (discussed in ii) below).

MPEP § IV(B)(2)(b) (8th Ed. Rev. 1.)

The MPEP goes on to explain the phrase "practical application in the technological arts":

A process that merely manipulates an abstract idea or performs a purely mathematical algorithm is nonstatutory despite the fact that it might inherently have some usefulness. . . .

. . . .

For such subject matter to be statutory, the claimed process must be limited to a practical application of the abstract idea or mathematical algorithm in the technological arts. . . . A claim is limited to a practical application when the method, as claimed, *produces a concrete, tangible and useful result*; i.e., the method recites a step or act of producing something that is concrete, tangible and useful.

MPEP § IV(B)(2)(b)(ii) (emphasis added).

The Examiner admitted that claim 1 produces a concrete, tangible and useful result. Applicants do not understand the Examiner's previous rejection of the claims under § 101 despite the presence of a concrete, tangible, and useful result. The Examiner's rejection appears to directly contradict the standard set forth in § 2106 of the MPEP. Applicants respectfully request reconsideration of the Examiner's position and allowance of the claims.

SUMMARY

In summary, each of claims 1-19 are in condition for allowance and a notice of allowance is respectfully requested.

Respectfully submitted,
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